

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

v.

§

CASE NO. 4:05CR173.10

§

JEROME KEITH GRIFFIN

§

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 27, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Robert Arrambide. The Government was represented by Glenn Rocque-Jackson.

On July 20, 2006, the Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to 17 months imprisonment followed by a 3-year term of supervised release for the offense of conspiracy to distribute or dispense or possess with intent to distribute or dispense cocaine base and marijuana. Defendant began his term of supervised release on December 29, 2006.

On January 9, 2009, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 766). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state or local crime; (2)

Defendant shall refrain from any unlawful use of a controlled substance, and Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court; and (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The petition alleges that Defendant committed the following violations: (1) on December 26, 2008, Defendant was arrested by the Plano, Texas, Police Department for the offenses of Felony Assault to Cause Bodily Injury and Interfering with an Emergency Call, and the matter was awaiting indictment at the time the petition was filed;¹ (2) on May 19, 2008, Defendant submitted a urine specimen which tested positive for cocaine; and (3) on December 26, 2008, Defendant advised a Plano, Texas, Police Officer that he was a “f*** up and had too much alcohol to drink that night,” and officers reported that Defendant smelled of alcohol.

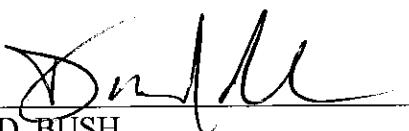
Prior to the Government putting on its case, Defendant entered a plea of true to the alleged violations. Defendant also waived allocution before a district judge. After hearing argument from counsel as to the proposed sentence, the Court recommended that Defendant’s supervised release be revoked based on those violations.

¹At the hearing, counsel for the Government stated that Defendant has since been charged and pleaded guilty to these state charges.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eighteen (18) months, with no supervised release to follow. The Court further recommends that Defendant's sentence in this matter run prior to any sentence for the more recent state offenses.

SIGNED this 5 day of May, 2009.


DON D. BUSH
UNITED STATES MAGISTRATE JUDGE